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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,685	01/11/2002	Peter Ar-Fu Lam	B7HTAG	9707

7590

03/10/2004

Peter Ar-Fu Lam
20104 Wayne Ave.
Torrance, CA 90503

EXAMINER

FIDEI, DAVID

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 03/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,685

Applicant(s)

LAM, PETER AR-FU

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Specification

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3, 5-7, 9, 10, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "the opposite" directions has no antecedent basis. It is believed it would be sufficient to recite --extending from opposite directions of said suspension member--.

In claim 3, "the width of said display tag" and "the width of said garment hanger" has no antecedent basis.

In claim 5, "the lower portion of said display tag" has no antecedent basis.

In claim 6, "the body of said hanger" has no antecedent basis.

In claim 7, "said fasteners comprise of a material" appears grammatically incorrect. Also, the color of the hanger behind the fasteners has no antecedent basis.

In claim 9, it is unclear what is considered "between" two hangers.

In claim 10, "the directions toward the remote ends" of said support has no antecedent basis.

In claim 12, it is unclear what hanger said garment hanger refers to. The term has double antecedent basis.

Said fastening means of claim 13 has no antecedent basis in claim 10.

The examiner's reviewing authority has stated that the second paragraph of 35 U.S.C. 112 requires a claim to particularly point out and distinctly claim the subject matter which applicant regards as his or her invention. Under *In re Hammack*, 166 USPQ 204 (CCPA 1970) and *In re Moore*, 169 USPQ 236 (CCPA 1971), claims must be analyzed to determine their metes and bounds so that it is clear from the claim language what subject matter the claims encompass. This analysis must be performed in light of the applicable prior art and the disclosure. The definiteness of the claims is important to allow others who wish to enter the market place to ascertain the boundaries of protection that are provided by the claims. *Ex parte Kristensen*, 10 USPQ 2d 1701, 1703 (PTO Bd. Pat. App. & Intf. 1989).

Claim Construction

4. In analyzing applicant's invention as set out in the pending claims, the examiner sets forth the following to aid in understanding the application of the prior art herein. Claims are to be given their broadest reasonable during prosecution, see *In re Priest*, 582 F.2d 33, 37 199 USPQ 11, 15 (CCPA 1978), and limitations from the specification will not be read into the claims, see, e.g. *In re Prater*, 415 F.2d 1393, 1404-1405, 162 USPQ 541, 550-51 (CCPA 1969). Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997), see MPEP 2106.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 6, 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Taff (Patent no. 3,231,159). A garment hanger is disclosed in figures 12 and 13 comprising at least one garment hanger having a suspension member 8 and two arms extending from the opposite directions of the suspension member for supporting a garment.

Member 202, having a display area positioned on top of the supporting arms as shown in figure 12, defines a display tag.

As to claim 2, the display member is trimmed or originally cut to be positioned below the hook as shown in figure 13.

As to claims 6, 14, a garment hanger is shown in figure 1 with a display tag defined by member 2 positioned behind the hanger 6. Fasteners 14, 24 are provided for attaching the garment hanger to the display tag.

As to claim 17, fastener 24 is a folded flap.

7. Claims 1-6, 9-13, 18, 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Rahmey (Patent no. 6,209,763). A retail garment hanger package is disclosed in figures 3 and 4 comprising at least one hanger 20 having a suspension member 32 and two supporting arms 22, 24 extending from opposite directions of the suspension member for supporting a garment. Member 60 having a display area positioned on top of the supporting arms defines a display tag.

As to claim 2, the display member is trimmed or originally cut to be positioned below the hook as shown in figure 3.

As to claim 3, the width of the display tag 60 is less than the width of the garment hanger.

As to claim 4, the display tag further comprises a flap defined by folded section 70 having a hole 72, see figure 4.

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As to claim 5, in the embodiments of figures 6 and 8 articles 17, 14 are contemplated as being attached to lower portion of the display tag by fastening means such as securing ties, see col. 7, lines 28-31. The result of such would be at least two holes located around a lower portion of the tag to receive the securing ties.

As to claim 6, at least two fasteners 78 and tabs (examiner's notation) on either side of fold 80 are disclosed for securing the display device to the hanger, see figure 4. Alternatively, tabs 78 and 68 could be considered at least two fasteners for securing the body to the hanger.

As to claim 9, the display tag 60 of figure 3 is considered positioned in between two hangers in that the tag bridges the space in between hangers 20, 40.

As to claim 10, first and second hangers are provided in figures 3 and 7 where the display tag is positioned in between the hangers as explained in claim 9. The display area extends towards, but does not reach, the remote end of the support arms.

As to claim 11, the display area 64 of figure 3 is positioned on top of support arms 22, 24, 42, 44.

As to claim 12, fastening means is formed by two tabs (examiner's notation) located on either side of fold line 80 in figure 4.

As to claim 13, a flap 66 is folded from the display tag. It is not understood what "said fastening means" refers to in this claim (see paragraph 3 above).

As to claim 18, the display tag is positioned behind the garment hanger in figure 4. A folded flap 70 is provided that is engaged with a suspension member.

As to claim 19, a hole 72 is provided

As to claim 21, the display area 64 of figure 3 is positioned on top of support arms 22, 24, 42, 44.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rahmey (Patent no. 6,209,763). The difference between claim 7 and Rahmey resides in the fasteners having a color similar to the color of the hanger. Nothing is mentioned in Rahmey about the color of the hangers or the display card.

It would have been an obvious matter of design choice to employ a card and hanger of any color scheme desired as a matter of routine skill. The particular color of the package is of no specific criticality nor solves any stated problem as the skilled artisan would have recognized a uniform color scheme is more esthetically pleasing by being more congruent.

10. Claims 7, 8, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taff (Patent no. 3,231,159). The difference between claims 7, 14, 15 and Taff resides in the fasteners (such as tape 14) having a color similar to the color of the hanger or being a transparent tape. Nothing is mentioned in Taff about the color of the hangers or the kind of adhesive tape 14 used.

Presumably, one of ordinary skill in the art would have found it an obvious matter of design choice to use any conventional tape available. To employ a color scheme that is similar to the hanger would have also been an obvious matter of design choice for the reason that the particular color of the package is of no specific criticality, or solves any stated problem. The skilled artisan would have recognized a uniform color scheme is more esthetically pleasing or more congruent.

As to claim 8, Official Notice is taken that the garment hanger recited therein is well known. To employ such a hanger would have been a mere selection of the particular hanger one desires to protect.

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11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rahmey as applied to claim 18 above, and further in view of Moen et al (Patent no. 4,944,436). The difference between the claimed subject matter and Rahmey resides in the hole 72 provided by at least one slit rather than the rectangular opening disclosed by Rahmey.

Moen et al is cited for the teaching of a slit 19 used for receipt of the suspension portion of a hanger. It would have been obvious to one of ordinary skill in the art to modify the display card 60 of Rahmey by constructing at least one slit as taught by Moen et al, for the reason that constructing a slit would be an art recognized equivalent manner of forming a suspension reception opening.

REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION

12. “In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant’s or patent owner’s reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. The reply must be reduced to writing (emphasis added)”, see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

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If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner's action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematurity of final rejection or admission of subsequent amendments do not necessarily reflect present practice. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)" (emphasis mine), see MPEP 706.07(a).

Conclusion

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

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Any inquiry concerning the MERITS of this examination from the examiner should be directed to David T. Fidei whose telephone number is (703) 308-1220. The examiner can normally be reached on Monday, Thursday and Friday 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached at (703) 308-2672.

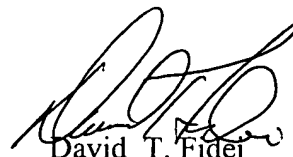
Effective Monday morning, August 4, 2003, all official faxes for the TCs will be received in one central location in the Office. In cooperation with the Customer Service Goal Team, a new central official fax number (703-872-9306) has been established for use by the TCs. An OG notice will be issued and the Website updated to alert PTO customers of the new fax number. Official standalone (non-RightFax) fax machines will be removed from the TC fax centers, their phone numbers auto-forwarded to a single RightFax account, and faxes printed in the centralized fax center.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8497
Assignment Branch	(703) 308-9723
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Fee Increase Questions	(703) 305-5125
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If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

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David T. Fidei
Primary Examiner
Art Unit 3728

dtf
March 8, 2004